

**PUBLIC NOTICE**  
**INTENT TO ADOPT A MITIGATED NEGATIVE DECLARATION**  
**CITY OF SAN JOSÉ, CALIFORNIA**

**1024, 1044, and 1050 Paula Street, San Jose, File No. PDC11-002.**

A Planned Development Rezoning to rezone from R-M Residential Zoning District to R-M(PD) Planned Development Zoning District and subsequent permits for a residential development to allow at least 7 and at most 8 detached single-family residences on an approximately 0.56 gross-acre site located on the south side of Paula Street, approximately 200 feet westerly of Race Street. The project is located in Council District 6.

The City has performed environmental review on the project. Environmental review examines the nature and extent of any adverse effects on the environment that could occur if a project is approved and implemented. Based on the review, the City has prepared a draft Mitigated Negative Declaration (MND) for this project. An MND is a statement by the City that the project will not have a significant effect on the environment if protective measures (mitigation measures) are included in the project.

The public is welcome to review and comment on the draft Mitigated Negative Declaration.

The public review period for this draft Mitigated Negative Declaration begins on **October 20, 2011** and ends on **November 9, 2011**.

The Planning Commission will consider the Mitigated Negative Declaration for the proposed project on November 16, 2011, at 6:30 p.m. in the City Council chambers. The decision to approve or deny the project described above will be made separately as required by City Ordinance.

The draft Mitigated Negative Declaration, initial study, and reference documents are available online at: <http://www.sanjoseca.gov/planning/eir/MND.asp>.

The documents are also available for review from 9:00 a.m. to 5:00 p.m. Monday through Friday at the City of San Jose Department of Planning, Building & Code Enforcement, located at City Hall, 200 East Santa Clara Street; and at the Dr. Martin Luther King, Jr. Main Library, located at 150 E. San Fernando Street.

For additional information, please call Jenny Nusbaum at (408) 535-7872 or by e-mail at [jenny.nusbaum@sanjoseca.gov](mailto:jenny.nusbaum@sanjoseca.gov).

Joseph Horwedel, Director  
Planning, Building and Code Enforcement



Deputy

Circulated on: October 20, 2011

**DRAFT**  
**MITIGATED NEGATIVE DECLARATION**

The Director of Planning, Building and Code Enforcement has reviewed the proposed project described below to determine whether it could have a significant effect on the environment as a result of project completion. "Significant effect on the environment" means a substantial, or potentially substantial, adverse change in any of the physical conditions within the area affected by the project including land, air, water, minerals, flora, fauna, ambient noise, and objects of historic or aesthetic significance.

**NAME OF PROJECT:** Paula Terrace Villas

**PROJECT FILE NUMBER:** PDC11-002

**PROJECT DESCRIPTION:** A Planned Development Rezoning from R-M Residential Zoning District to R-M(PD) Planned Development Zoning District and subsequent permits for a residential development consisting of at least 7 and up to 8 single-family detached residential dwelling units on an approximately 0.56 gross-acre site. The project also includes removal of up to three existing single-family houses, two garages converted to residential use, and trees; and subdividing three existing lots into eight lots and a common lot.

**PROJECT LOCATION & ASSESSORS PARCEL NO.:** South side of Paula Street, about 200 feet west of Race Street (1024,1044, and1050 Paula Street), San Jose CA APN 264-07-033 & 034 & 055;

**COUNCIL DISTRICT:** 6

**APPLICANT CONTACT INFORMATION:** Rockwell Homes, 2160 South Bascom Avenue, Campbell, CA 95008 Contact person: Kamil Navai

**FINDING**

The Director of Planning, Building & Code Enforcement finds the project described above will not have a significant effect on the environment in that the attached initial study identifies one or more potentially significant effects on the environment for which the project applicant, before public release of this draft Mitigated Negative Declaration, has made or agrees to make project revisions that clearly mitigate the effects to a less than significant level.

**MITIGATION MEASURES INCLUDED IN THE PROJECT TO REDUCE POTENTIALLY SIGNIFICANT EFFECTS TO A LESS THAN SIGNIFICANT LEVEL**

- I. **AESTHETICS** – The project will not have a significant impact on this resource, therefore no mitigation is required.
- II. **AGRICULTURE RESOURCES** – The project will not have a significant impact on this resource, therefore no mitigation is required.
- III. **AIR QUALITY** – The project will not have a significant impact on this resource, therefore no mitigation is required.

**IV. BIOLOGICAL RESOURCES** – The project site may provide habitat for wildlife species associated with urban areas. Trees in urban areas provide food and cover for wildlife adapted to this environment, including birds such as house finch, mourning dove, house sparrow, and Brewer's blackbird. In addition, mature trees on the project site may provide nesting habitat for raptors (birds of prey). Raptors and their nests are protected under the Migratory Bird Treaty Act of 1918 and California Department of Fish and Game (CDFG) Code Sections 3503 and 3503.5. Although no raptors or nests have been observed on the site, mature trees suitable for raptor nesting occur on the site. Despite the disturbed nature of the site, there remains the potential for raptors to nest in these trees. The houses and garages on the project site could potentially provide habitat for bats or locations for bat roosts.

**MITIGATION MEASURES:** The project shall implement the following mitigation measures:

- If possible, initiation of site clearing and construction should be scheduled between October and December (inclusive) to avoid the raptor nesting season. If this is not possible, pre-construction surveys for nesting raptors shall be conducted by a qualified ornithologist to identify active raptor nests that may be disturbed during project implementation. Between January and April (inclusive) pre-construction surveys shall be conducted no more than 14 days prior to the initiation of construction activities or tree relocation or removal. Between May and August (inclusive), pre-construction surveys no more than thirty (30) days prior to the initiation of these activities. The surveying ornithologist shall inspect all trees in and immediately adjacent to the construction area for raptor nests. If an active raptor nest is found in or close enough to the construction area to be disturbed by these activities, the ornithologist, shall, in consultation with the State of California, Department of Fish & Game (CDFG), designate a construction-free buffer zone (typically 250 feet) around the nest. The applicant shall submit a report to the City's Environmental Principal Planner indicating the results of the survey and any designated buffer zones to the satisfaction of the Director of Planning prior to the issuance of any grading or building permit.
- Surveys for roosting bats shall be conducted by a qualified biologist no more than thirty (30) days prior to any building demolition or removal, construction activities or oak tree trimming. If a female or maternity colony of bats is found on the project site, and the project can be constructed without disturbance to the roosting colony, a bat biologist shall designate buffer zones (both physical and temporal) as necessary to ensure the continued success of the colony. Buffer zones may include a 200-foot buffer zone from the roost and/or timing of the construction activities outside the maternity roosting season (after July 31 and before March 1). If an active nursery roost is known to occur on the site and the project cannot be constructed outside of the maternity roosting season, bats may be excluded after July 31 and before March 1 to prevent the formation of maternity colonies. Such exclusion shall occur under the direction of a bat biologist, by sealing openings and providing bats with one-way exclusion doors. In order to avoid excluding all potential maternity roosting habitat simultaneously, alternative roosting habitat, as determined by the bat biologist, should be in place at least one summer season prior to the exclusion. Oaks overhanging the project site from the adjacent should be preserved to the maximum extent feasible as potential bat roosting habitat. Bat roosts should be monitored as determined necessary by a qualified bat biologist, and the removal or displacement of bats shall be performed in conformance with the requirements of the CDFG. A biologist report outlining

the results of pre-construction surveys and any recommended buffer zones or other mitigation shall be submitted to the satisfaction of the City's Environmental Principal Planner prior to the issuance of any grading, building, or tree removal permit.

- V. **CULTURAL RESOURCES** – The project will not have a significant impact on cultural resources, therefore no mitigation is required.
- VI. **GEOLOGY AND SOILS** – The project will not have a significant impact on greenhouse gas emissions nor create significant greenhouse gas emissions, therefore no mitigation is required.
- VII. **GREENHOUSE GAS EMISSIONS** – The project will not have a significant impact on greenhouse gas emissions nor create significant greenhouse gas emissions, therefore no mitigation is required.
- VIII. **HAZARDS AND HAZARDOUS MATERIALS** – The project will not have a significant impact on hazards and hazardous materials nor create significant hazards or hazardous materials, therefore no mitigation is required.
- IX. **HYDROLOGY AND WATER QUALITY** – The project will not have a significant impact on this resource, therefore no mitigation is required.
- X. **LAND USE AND PLANNING** – The project will not have a significant impact on this resource, therefore no mitigation is required.
- XI. **MINERAL RESOURCES** – The project will not have a significant impact on this resource, therefore no mitigation is required.
- XII. **NOISE** – A noise report was prepared for the project by Edward L. Pack Associates on June 3, 2011. The noise report found that the major contributor to noise at the project site is traffic on Interstate Highway 280, located north of the project site. Noise from other nearby streets does not affect the site. Outdoor noise levels were measured at 67 dB DNL at the first floor elevation and 70 dB DNL at the second floor elevation. Noise levels will exceed the City's standards for exterior noise exposure, which is normally 60 dB DNL. For sites in (1) the Downtown Core Area, in (2) the vicinity of the Norman Y. Mineta San Jose International Airport or (3) adjacent to major roadways 65 dBA DNL can be considered acceptable. If noise in all outdoor use areas cannot feasibly be reduced to 60 dBA DNL, the noise impact may be considered mitigated to a less-than-significant level if noise in at least one of the required outdoor use areas (all private open space areas or all required common open space) can be reduced to 65 dBA. A noise level of 65 dBA DNL is considered consistent with residential land uses by the Department of Housing and Urban Development, the Federal Aviation Administration, and the State of California. These standards take into account the impacts of noise on human health. The noise report provides two mitigation options, one requiring walls up to 12 feet high along the side property lines, and one requiring walls eight feet high. The higher walls would reduce noise levels to within the 60 dB DNL standard, but are considered too high to be feasible or desirable in a residential side yard. The eight-foot walls, which are still two feet higher than a standard side yard wall, would reduce noise levels to within the 65 dB DNL standard. The project site is exposed to noise from a major roadway, so qualifies for

the higher noise standard.

*Interior Noise Levels*

The noise report projected that interior noise levels would be 52 and 55 dB DNL at the first and second floors of proposed buildings. The City's interior noise standard is 45 dB DNL. The proposed sound barriers would not fully mitigate interior noise levels. The noise report recommends the use of windows with a Sound Transmission Class of 30. Because windows would generally be closed to maintain acceptable noise levels, mechanical ventilation would be required.

**MITIGATION MEASURES:** The project shall implement the following mitigation measures:

- All units shall be equipped with forced air ventilation systems to allow the occupants the option of maintaining the windows closed to control noise, and maintain an interior noise level of 45 DNL. Prior to issuance of building permits, the developer shall retain a qualified acoustical consultant to check the building plans for all units to ensure that interior noise levels can be sufficiently attenuated to 45 DNL to the satisfaction of the Director of Planning, Building and Code Enforcement.
- As this project is in an area with a noise level between 60 DNL and 70 DNL, this project will include mechanical ventilation, which will allow the windows to be closed for noise control and will reduce the noise levels inside the units by 25 DNL.
- Install windows and glass doors so that the sliding window and glass door panels form an air-tight seal when in the closed position and the window and glass door frames are caulked to the wall opening around their entire perimeter with a non-hardening caulking compound to prevent sound infiltration.
- The project shall include eight-foot high acoustically-effective barriers along the east and west property lines. The barriers shall turn to connect air tight to the sides of the homes on Lots 1 and 8 (the lots nearest Paula Street). Barrier height shall be measured in reference to the nearest building pad elevation.
- The project shall include six-foot high acoustically effective fences between the homes on Lots 1 and 2 and between the homes on Lots 7 and 8 (the four lots closest to Paula Street). Barrier height shall be measured in reference to the nearest building pad elevation.

**XIII. POPULATION AND HOUSING** – The project will not have a significant impact on this resource, therefore no mitigation is required.

**XIV. PUBLIC SERVICES** – The project will not have a significant impact on this resource, therefore no mitigation is required.

**XV. RECREATION** – The project will not have a significant impact on this resource, therefore no mitigation is required.

**XVI. TRANSPORTATION / TRAFFIC** – The project will not have a significant impact on traffic, therefore no mitigation is required.

**XVII. UTILITIES AND SERVICE SYSTEMS** – The project will not have a significant impact on this resource, therefore no mitigation is required.

**XVIII. MANDATORY FINDINGS OF SIGNIFICANCE** – As discussed in the previous Biological Resource section, the proposed project could potentially have significant environmental effects with respect to biological resources and noise. With the above noted mitigation, however, the impacts of the proposed project would be reduced to a less than significant level.

**PUBLIC REVIEW PERIOD**

Before 5:00 p.m. on **November 9, 2011**, any person may:

1. Review the Draft Mitigated Negative Declaration (MND) as an informational document only;  
or
2. Submit written comments regarding the information, analysis, and mitigation measures in the Draft MND. Before the MND is adopted, Planning staff will prepare written responses to any comments, and revise the Draft MND, if necessary, to reflect any concerns raised during the public review period. All written comments will be included as part of the Final MND.

Joseph Horwedel, Director  
Planning, Building and Code Enforcement



Deputy

Circulated on: October 20, 2011